

FILED

JAN 24 2011

RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR-10-703 MMC

Plaintiff,

**ORDER FOR CRIMINAL
PRETRIAL PREPARATION**

v.

MICHAEL HIGGINBOTHAM

Defendant.

Good cause appearing, IT IS HEREBY ORDERED that:

TRIAL:

Trial will begin on **MONDAY, April 25, 2011**, at **9:00 a.m.** Estimated length of trial is 8 days.

DISCOVERY:

By the close of business, **WEDNESDAY, March 2, 2011**, the parties will exchange the information, documents and tangible objects authorized by Rule 16 of the Federal Rules of Criminal Procedure. Additional discovery shall be by motion accompanied by affidavits setting forth the unusual circumstances justifying discovery beyond the limits of Rule 16.

PRIOR TO FILING ANY DISCOVERY-RELATED MOTIONS, COUNSEL SHALL:

1. Meet and confer with opposing counsel, and
2. File a declaration, under penalty of perjury, that counsel has conferred with opposing counsel with respect to each and every issue on an informal basis. Said declaration may be filed contemporaneously with the motion. If no such declaration is filed, the Court will return the motion papers to counsel.

1 **MOTIONS:**

2 All motions, other than motions in limine will be heard on **WEDNESDAY, March**
3 **23, 2011, at 2:30 p.m.** Motions, affidavits and memoranda shall be filed by the moving party by
4 **4:00 p.m. on February 16, 2011.** Any opposition shall be filed by **4:00 p.m. on March 2, 2011,**
5 **and any reply shall be filed by 4:00 p.m. on March 9, 2011.**

6 **Motions in limine shall be filed by March 22, 2011, and any oppositions shall be**
7 **filed by March 29, 2011, both of said filings to be submitted by 4:00 p.m.**

8 **PRETRIAL CONFERENCE:**

9 A Pretrial Conference will be held on **TUESDAY, April 12, 2011, at 10:00 a.m.** At
10 the Pretrial Conference the parties shall be prepared to discuss the matters set forth in Criminal Local
11 Rule 17.1-1(b).

12 **PRETRIAL PREPARATION:**

13 Not less than **five court days** before the Pretrial Conference, counsel for the
14 government shall:

15 (1) Serve and file a trial memorandum briefly stating the legal bases for the
16 charges and the anticipated evidence, and addressing any evidentiary, procedural or other
17 anticipated legal issues;

18 (2) Serve and file a list of all witnesses who may be called, together with a brief
19 summary of the testimony of each;

20 (3) Serve and lodge a proposed form of verdict on pleading paper containing no
21 reference to the party submitting it;

22 (4) Serve and lodge proposed questions for jury voir dire; and

23 (5) Serve and lodge copies of all exhibits to be offered at trial, together with a
24 complete list (**see attached form**) of those exhibits. Each exhibit shall be premarked with an
25 exhibit sticker (**see attached form**), the government's with numbers and the defendant's with letters.

26 Not less than **five court days** before the Pretrial Conference, defense counsel shall
27 comply with subparagraphs (3) and (4) above, and, to the extent consistent with the defendant's right
28 to an effective defense, with subparagraphs (1), (2) and (5) above.

JURY INSTRUCTIONS:

All proposed jury instructions and any objections thereto are to be filed and served no later than **five court days** before the pretrial conference.

In advance of the pretrial filings the parties shall do the following:

- (1) Meet and confer and resolve all jury instructions to the extent possible. Parties are expected to resolve technical or semantic differences.
- (2) Prepare **one joint** set of instructions upon which the parties agree.
- (3) The parties shall submit separately only those instructions upon which there is **substantive** disagreement. Each separate instruction shall note on its face the identity of the party submitting such instruction. The party or parties objecting to an instruction shall file a written objection. The form of the objection shall be as follows:
 - (a) Set forth in full the instruction to which the objection is made;
 - (b) Provide concise argument and citation to authority explaining why the instruction is improper.
 - (c) Set forth in full an alternative instruction, if any;
- (4) All instructions should be concise, understandable and neutral statements of law. Argumentative instructions will not be given and should not be submitted.
- (5) Any modifications of instructions from the Ninth Circuit Model Jury Instructions or other form instructions must identify the modifications made to the original form instruction and the authority supporting the modification.

TRANSCRIPTS:

If transcripts will be requested during or immediately after trial, arrangements must be made with the court reporter at least **one week** before trial commences.

CHANGE OF PLEA:

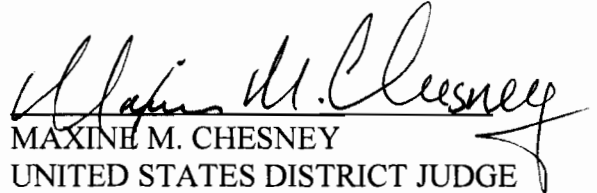
Defendant's counsel shall give prompt notice to the United States Attorney and to the Court of any intention to change a previously entered not guilty plea.

EXHIBITS:

Each party is responsible for their exhibits. Upon the conclusion of the trial, each party shall retain their exhibits. Should an appeal be taken, it is the party's responsibility to make arrangements with the clerk of the Court to file the record on appeal.

IT IS SO ORDERED.

Dated:


MAXINE M. CHESNEY
UNITED STATES DISTRICT JUDGE